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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92052950
Party	Defendant King Par, LLC
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Submission	Response to Board Order/Inquiry
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Date	10/20/2011
Attachments	Response.pdf (8 pages)(456954 bytes)

**THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

KING PAR, LLC,)	
)	CANCELLATION NO. 92052163
v)	
)	
JOHN S. FRANKLIN)	
)	
AND)	
)	
JOHN S. FRANKLIN,)	
)	CANCELLATION NO. 92052950
v)	
)	
KING PAR, LLC)	
)	

RESPONSE TO ORDER TO SHOW CAUSE

INTRODUCTION

On October 12, 2011, the Board entered its order requiring the Petitioner to show cause why the Board should not treat failure to file its main brief as a concession of the case. Petitioner's response follows:

PETITIONER'S BASIS FOR SCHEDULING ITS DUE DATE FOR ITS MAIN BRIEF ON OCTOBER 20

On November 12, 2010, the parties stipulated to the entry of a scheduling order, a copy of which is attached hereto as Exhibit A. In that scheduling order, the parties proposed a scheduling order which included, in addition to the usual deadlines for discovery and disclosures, a briefing schedule as follows:

Brief for plaintiff due	October 20, 2011
Brief for defendant and plaintiff in the counterclaim due	November 20, 2011
Brief for defendant in the counterclaim and reply brief, if any, for plaintiff due	December 19, 2011
Reply brief, if any, for plaintiff in the counterclaim due	January 4, 2012

This stipulated scheduling order was transmitted to the Trademark Trial and Appeal Board on November 17, 2010.

On the same day, the Trademark Trial and Appeal Board confirmed receipt of the stipulated scheduling order, but for reasons unknown to Petitioner's counsel, the substance of the motion for extension of dates did not correspond to the stipulation submitted by the parties. Undersigned counsel's staff docketed all dates. Later on November 17, 2010, the Trademark Trial and Appeal Board issued its order granting the stipulated motion to extend, and ordered that all dates would be reset as set out in the motion.

On that basis, Plaintiff's counsel concluded that the Trademark Trial and Appeal Board had accepted the briefing schedule agreed to by the parties, rendering the Plaintiff's initial brief due on October 20, 2011. A copy of the Board's order of November 17, 2010, granting Plaintiff's motion to revise the scheduling order, is attached hereto as Exhibit B.

For all of the foregoing reasons, it has been Plaintiff's counsel's understanding that Plaintiff's initial brief would be due on October 20, 2011.

Plaintiff remains interested in pursuing the cancellation petition, and its failure to file its original brief on October 1, 2011, was based on counsel's firm belief that the correct date for filing said brief was October 20, 2011.

PLAINTIFF'S MAIN BRIEF HAS BEEN FILED

On October 19, 2011, Plaintiff filed its main brief, including exhibits, in support of its petition for cancellation. As above recited, it is Plaintiff's understanding that this brief has been timely filed, consistent with the stipulation of the parties and the order of the Trademark Trial and Appeal Board, and respectfully submits that the foregoing constitutes a valid showing of cause as to why the petition for cancellation should not be dismissed.

Respectfully submitted,

/Marshall G. MacFarlane/
Marshall G. MacFarlane
Reg. No. 30,403
YOUNG BASILE HANLON &
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301 E. Liberty, Suite 680
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Attorneys for Plaintiff King Par, LLC

DATED: October 20, 2011

CERTIFICATE OF MAILING

I hereby certify that this correspondence: RESPONSE TO ORDER TO SHOW CAUSE, is being filed with the TTAB electronically, on October 20, 2011.

/Marshall G. MacFarlane/

Marshall G. MacFarlane

CERTIFICATE OF SERVICE

I hereby certify that this correspondence: RESPONSE TO ORDER TO SHOW CAUSE, is being deposited with the United States Postal Service, 1st Class Mail, postage prepaid, in an envelope addressed to Douglas M. Kautzky, 3868 Carson Street, Suite 105, Torrance, California 90503, on October 20, 2011.

/Marshall G. MacFarlane

Marshall G. MacFarlane

**THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

CANCELLATION NO. 92052163

KING PAR, LLC,

v.

JOHN S. FRANKLIN

CANCELLATION NO. 92052950

JOHN S. FRANKLIN

v

KING PAR, LLC

Consistent with the order of the Trademark Trial and Appeal Board mailed November 8, 2010, and stipulate to the entry of the following Scheduling Order.

STIPULATED SCHEDULING ORDER

Discovery Closes	December 19, 2010
Plaintiff's Pretrial Disclosures	January 24, 2011
30-day testimony period for plaintiff's testimony to close	March 9, 2011
Defendant/Counterclaim Plaintiff's Pretrial Disclosures	March 24, 2011
30-day testimony period for defendant and plaintiff in the counterclaim to close	May 8, 2011
Counterclaim Defendant's and Plaintiff's Rebuttal Disclosures Due	May 23, 2011

EXHIBIT

A

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30-day testimony period for defendant in
the counterclaim and rebuttal testimony
for plaintiff to close

July 7, 2011

Counterclaim Plaintiff's Rebuttal
Disclosures Due

July 22, 2011

15-day rebuttal period for plaintiff
in the counterclaim to close

August 22, 2011

Brief for plaintiff due

October 20, 2011

Brief for defendant and plaintiff in
The counterclaim due

November 20, 2011

Brief for defendant in the counterclaim
and reply brief, if any, for plaintiff due

December 19, 2011

Reply brief, if any, for plaintiff in the
counterclaim due

January 4, 2012

s/Marshall G. MacFarlane

Marshall G. MacFarlane

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DATED: November 12, 2010

s/John S. Franklin

John S. Franklin

2562 Via Tejon

Palos Verdes Estates, CA 90274

(310) 697-8520

(310) 791-2700 (Facsimile)

john.franklin@sportssourceinc.com

DATED: November 12, 2010

CERTIFICATE OF MAILING

I hereby certify that this correspondence: Stipulated Scheduling Order, is being filed with the TTAB electronically, on November 17, 2010.

s/Marshall G. MacFarlane

Marshall G. MacFarlane

CERTIFICATE OF SERVICE

I hereby certify that this correspondence: Stipulated Scheduling Order, is being deposited with the United States Postal Service, 1st Class Mail, postage prepaid, in an envelope addressed to Eric H. Geffner, 815 Moraga Drive, Los Angeles, CA 90049-1633, on November 17, 2010.

s/Marshall G. MacFarlane

Marshall G. MacFarlane

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

November 17, 2010

PROCEEDING NO. 92052163
King Par, LLC

v.

John S. Franklin

MOTION TO EXTEND GRANTED

By the Board:

King Par, LLC's consent motion to extend, filed Nov 17,
2010, is granted. Dates are reset as set out in the motion.

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